

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 3285 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE H.R.SHELAT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BABUBHAI SAQVDHANJI THAKORE

Versus

RAJENDRABHAI AJITKUMAR PATEL

Appearance:

MR BN RAVAL for Petitioners

MR AJ PATEL for Respondent No. 1

Mr. S.P. Dave, APP for Respondent No. 2

CORAM : MR.JUSTICE H.R.SHELAT

Date of decision: 29/08/98

ORAL JUDGEMENT

Rule. Mr. S.R. Patel, the learned advocate waives the service of Rule for and on behalf of opponent No.1. Mr. Dave, learned APP waives the service of Rule for and on behalf of opponent No.2.

2. The opponent No.1 has filed the complaint against the present petitioners relating to the offences punishable under Section 143, 147, 447, 427 I.P.C. and Section 33-A of the Forest Act. The complaint was lodged

in the Odhav police station on 11th February 1995. Having come to know about the complaint filed against them, the petitioners have by this application approached this Court for getting the complaint lodged against them quashed invoking Section 482 of the Criminal Procedure Code.

3. Perusing the papers and the facts emerging on the record before me, it appears that there is a dispute amongst the parties qua the agricultural lands bearing Survey No. 382/2 and 383/2. Necessary proceedings were also initiated before the Agricultural Lands Tribunal wherein the present opponent No.1 failed. The issue going to the root in this case is already decided by the A.L.T. The Regular Civil Suit No. 996 of 1995 is also filed by the petitioner No.1 against the opponent and two others in the Court of the Civil Judge (J.D.), Ahmedabad (Rural) at Ahmedabad. In that very suit, the issue that is raised in this application is also the issue for determination. In view of such civil litigations wherein also the similar issue is involved and by ALT the issue is also set at rest, the parties have settled their dispute and the learned advocate representing the opponent No.1 submits that on the basis of the settlement arrived at between the parties, this Court may allow this application and quash the proceedings.

4. Mr. Dave, learned APP is also heard in the matter. He is not able to show any ground to reject the application. In view of the matter, it will be futile to call upon the petitioners Nos. 1 to 4 to face the trial and then have the acquittal. What is going to be done some times after at the conclusion of the hearing, can best be done right now instead of calling upon the petitioners No. 1 to 4 to face the trial and thereby have undue exercise and hardship to the petitioners. In view of the matter the application is allowed qua petitioners Nos. 1 to 4. The complaint lodged by opponent No.1 on 11th December 1995 in Odhav police station at Ahmedabad against the petitioners which is registered as Crime Register No. I-387 of 1995 is hereby quashed and the petitioners are discharged of the offence alleged in the FIR. The investigating agency will be free to proceed with the investigation so far it relates to the accused other than the petitioners. Rule accordingly made absolute.

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(rmr).

TRUE COPY

(R.M. Ravindran)
Private Secretary
to the Hon'ble Judge
High Court of Gujarat
Ahmedabad